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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,035	08/21/2003	Michael E. Ring	CRD 01482	7356

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JAMES RAY & ASSOCIATES
2640 Pitcairn Road
Monroeville, PA 15146

EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3657

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08/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/645,035	Applicant(s) RING ET AL.	
	Examiner Melody M. Burch	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6,9-13,16-18 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-13,16-18 and 26-28 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 5-6, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6792704 to Johnson in view of US Patent 6116385 to Ring.

Re: claim 1. Johnson shows in figures 1 and 2 an actuating member capable of being used for a railway vehicle brake assembly, the vehicle brake assembly having an air spring actuator 1 incorporated therein, the air spring actuator having a pair of spaced apart end surfaces below 18(a) and above 18(b) and at least one inflatable air bag spring 3 defining an exterior peripheral surface of the air spring actuator, at least one of the pair of spaced apart end surfaces at least the top one having a plurality of mounting member extending outwardly therefrom as shown, said actuating member comprising: a first plate member 18(a) disposed substantially vertically with respect to element 20 during use of the brake assembly, the first plate member having a first substantially planar surface thereof disposed in abutting relationship with one of the pair of spaced apart end surfaces of the air spring actuator as shown, the first plate member exposing the exterior peripheral surface of the at least one inflatable air spring to an

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atmospheric operating environment characterized by a presence of detrimental extraneous foreign material when the car mounted brake assembly is in use; a second plate member 20 disposed substantially horizontally with respect to 18(a) during use of the brake assembly, the second plate member directly attached to the first plate member at a bottom edge thereof and extending substantially perpendicular to the first substantially planar surface of the first plate member for shielding at least a first portion of the exterior peripheral surface of the air spring actuator from the detrimental extraneous foreign material; a structure 17,35 disposed on and attached to an opposed second surface of the first plate member for securing the actuating member to an actuating linkage of the brake assembly; a plurality of mounting apertures formed through a thickness of the first plate member as shown each of the plurality of mounting apertures operatively aligned with and sized to pass therethrough a perspective one of the plurality of mounting members extending outwardly from the one of the pair of end surfaces, and a pair of plate portions shown in the area of the end of lead lines 24 disposed planar with the first plate member adjacent a top edge thereof, each of the pair of plate portions protruding outwardly from a respective side edge of the first plate member.

Johnson is silent with regards to the vehicle brake assembly being a railway vehicle brake assembly.

Ring teaches in figures 1 and 3 the use of a brake assembly being in the form of a railway vehicle brake.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified vehicle brake assembly of Johnson to have been a railway vehicle brake system, as taught by Ring, in order to provide a means of controlling movement between components of a rail vehicle to improve the feel of the ride on the rail vehicle.

Johnson is silent with regards to the other spaced apart end surface having a plurality of mounting members.

Johnson teaches in figure 2 the top spaced apart end surface having a plurality of mounting members.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the other spaced apart end surface to have included a plurality of mounting members, as taught by Johnson, in order to provide an effective way of securing the end surface to portion 18(b).

In *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) the court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced.

Re: claim 2. Johnson, as modified, shows in figures 1 and 2 of Johnson wherein the actuating member further includes a third plate member or other/left element 20 which is indirectly connected to the second plate member 20.

Re: claim 5. Johnson, as modified, shows in figure 1 of Johnson the means 17 including at least one plate member 17 having an aperture formed therethrough shown

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surrounding element 12 and a pin member 12 disposed in the aperture for securing the at least one plate member to such control linkage.

Re: claims 6, 23, and 24. See the rejection of claim 1 and the elongated members are left and right elements 20.

Re: claim 25. See elongated member 20, 18(b) with 18(b) representing the greater width portion.

3. Claims 1-2, 5-6, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Ring and further in view of US Patent 6142480 to Streitman et al.

Johnson, as modified, is not explicit with regards to the operating environment being characterized by a presence of detrimental extraneous foreign material.

Streitman et al. teach in col. 1 the use of a railway vehicle brake being in the environment characterized by a presence of detrimental extraneous foreign material.

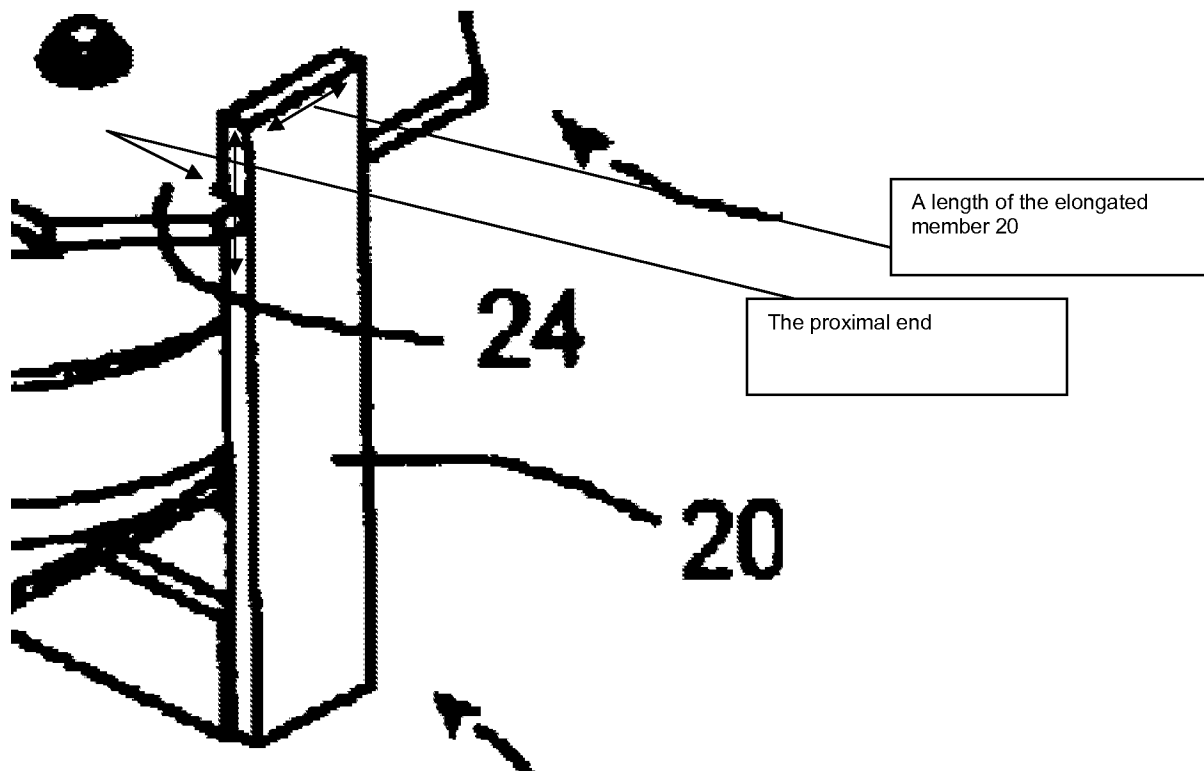
It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a surrounding environment characterized by detrimental extraneous foreign material, as taught by Streitman et al., since it is old and well-known in the art that vehicles operate in an environment marked by detrimental extraneous foreign material such as vehicle emissions and other harmful byproducts output from other machines.

Allowable Subject Matter

4. Claims 9, 10-13, 16-18, 26, 27 and 28 are allowed.

Response to Arguments

5. Applicant's arguments filed 5/27/10 have been fully considered but they are not persuasive. Claim 6 has been amended to include the limitation "said proximal end disposed transverse to a length of said each of said pair of elongated members" in order to overcome the current interpretation of Johnson. Examiner notes; however, that the amended does not overcome the following interpretation of Johnson:



As clearly shown in the annotated drawing above the labeled proximal end is disposed transverse to a length of the elongated member 20 as labeled and as broadly recited.

Applicant also argues with respect to claim 1 that Johnson fails to show the limitation of a second plate member directly attached to the first plate member at a bottom edge thereof. Examiner disagrees and notes that the second plate member 20

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is directly attached to the first plate member 18(a) at a bottom edge thereof in the sense that element 20 fitting in the groove of plate 18(a) in the area near the end of the lead line of number 24 has surfaces and edges directly attached to both the top and bottom edges of the first plate 18(a) as shown in figure 2.

Accordingly, the rejections using the Johnson reference have been maintained.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb
August 15, 2010

/Melody M. Burch/
Primary Examiner, Art Unit 3657